

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ASHLEY C. GUERDAN, et al.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:23-CV-556-KHJ-MTP

COMMUNITY BANK OF MISSISSIPPI, et al.

DEFENDANTS

ORDER

Before the Court are Plaintiffs Ashley and Catherine Guerdan's (collectively "Guerdan") and Defendant Caliber Home Loans, Inc.'s [32, 35] Motions to Stay. For the following reasons, the Court denies Guerdan's [32] Motion to Stay, and it grants in part and denies in part Caliber's [35] Motion to Stay.

I. Background

This is one of two lawsuits that Guerdan filed. *See Guerdan, et al. v. State Automobile Mut. Ins. Co., et al.*, No. 3:22-CV-144-HGW-LGI. The first lawsuit ("Guerdan I") is currently before Judge Henry T. Wingate, and Defendants in that case moved [90] to consolidate the two cases. That motion is pending.

In this second lawsuit ("Guerdan II"), Guerdan moves to stay the time to file responsive pleadings for Defendant Pennymac Loan Services, LLC's [13] Motion to Dismiss until after the Court rules on Guerdan's [23] Motion to Remand. Pennymac opposes this request. *See* Resp. in Opp'n [41].

Separately, Caliber filed a [35] Motion to Stay Proceedings and Consideration of the Motion to Remand until Judge Wingate rules on the motion to consolidate in

Guerdan I. Guerdan opposes the request. *See* Resp. in Opp'n [44]. The Court addresses each motion in turn.

II. Analysis

Guerdan moved to remand, [23], and is therefore correct that Local Uniform Civil Rule 16(b)(1)(B) applies. According to that Rule, “[a] motion to remand . . . will stay the attorney conference and disclosure requirements and all discovery not relevant to the remand or referral issue and will stay the parties’ obligation to make disclosures pending the court’s ruling on the motions.” But the Magistrate Judge already stayed the discovery and disclosure requirements per that Rule. Order [40] at 3. Guerdan now asks the Court to stay its response to the pending motion to dismiss. *See* [32]; [13]. The Court declines to do so.

If Judge Wingate denies the [90] Motion to Consolidate in *Guerdan I*, the Court intends to rule on Guerdan's [23] Motion to Remand before ruling on Pennymac's [13] Motion to Dismiss. This, however, does not relieve Guerdan of the obligation to respond to the [13] Motion to Dismiss. If the motion to consolidate in *Guerdan I* and the [23] Motion to Remand in *Guerdan II* are denied, the Court could then rule expeditiously on the remaining motion(s) if fully briefed.

The Court turns to Caliber's [35] Motion to Stay the Proceedings and Consideration of the Motion to Remand. Caliber correctly asserts that staying consideration of the [23] Motion to Remand pending Judge Wingate's ruling on the motion to consolidate in *Guerdan I* avoids the potential of inconsistent rulings. But staying consideration of the [23] Motion to Remand does not relieve Caliber of its

obligation to file a responsive briefing to that motion. As explained above, having the motion fully briefed will allow the Court to rule expeditiously if Judge Wingate denies consolidation of the cases.

III. Conclusion

Accordingly, the Court DENIES Guerdan's [32] Motion to Stay Proceedings. The Court will allow Guerdan additional time to respond to Pennymac's [13] Motion to Dismiss. Guerdan's response is now due by November 6, 2023.

Further, the Court GRANTS IN PART and DENIES IN PART Caliber's [35] Motion to Stay Proceedings and Consideration of the Motion to Remand. Specifically, the Court GRANTS Caliber's request to stay consideration of Guerdan's [23] Motion to Remand pending Judge Wingate's ruling on the [90] Motion to Consolidate in *Guerdan I*. But the Court DENIES Caliber's request to stay briefing on the [23] Motion to Remand. The Court will allow Caliber additional time to respond to Guerdan's [23] Motion to Remand. Caliber's response is now due by November 6, 2023.

SO ORDERED, this 20th day of October, 2023.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE